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Report of the Working Group on the Universal Periodic Review*

United States of America

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Addendum of the United States of America to the Report of the Working Group on its Universal Periodic Review

1. The U. S. government has carefully reviewed the 343 recommendations received during its Universal Periodic Review. This response reflects our continuing efforts, in consultation with civil society, to promote, protect, and respect human rights for all.

2. Some recommendations ask us to achieve an ideal, e.g., end discrimination or police brutality, and others request action not entirely within the power of our Federal Executive Branch, e.g., adopt legislation, ratify treaties, or act at the state level. We support or support in part these recommendations when we share their ideals, are making serious efforts to achieve their goals, and intend to continue doing so. Nonetheless, we recognize, realistically, that the United States may never completely accomplish what is described in these recommendations' literal terms.

3. We support recommendations to take actions we are already taking or have taken, and intend to continue taking, without in any way implying that our ongoing or prior efforts have been unsuccessful or that these actions are necessarily legally required. With respect to judicial remedies, we note that we cannot make commitments regarding, and do not control, the outcome of court proceedings.

4. Where recommendations include inaccurate assumptions, assertions, or factual predicates, we have decided whether we support them or support them in part by looking past their rhetoric to the proposed action or objective.

Civil Rights and non-discrimination

5. We support:

- 118,119,123,131,133,134,137,139,140,141,144,145,157,159,160,162,163,216,219, 222,225,228,276,277,281,287.
- 127,128,129. In December 2014, the President created the Task Force on 21st-Century Policing to make recommendations to strengthen police-community relations. Many state, local, and tribal law enforcement agencies are presently implementing many of those recommendations.
- 214,215,221,223. See general explanation in para. 6.
- 121,143,146,148,149,150,151,152,153,161,220. Profiling – the invidious use of irrelevant individual characteristics including race, ethnicity, national origin, or religion – is prohibited under our Constitution and federal government policy.
- 130. See explanation of #126, para. 6.

6. We support, in part:

- We note that we have federal, state, and tribal legislation and strategies in place to combat discrimination, including racial discrimination, and we take effective measures to counter intolerance, violence, and discrimination against members of all minority groups, including African-Americans, Muslims, Arabs, and indigenous persons:
    - 113,125,154,155,227,321.
    - 120,135,136. We cannot support these recommendations to the extent they ask us to restrict constitutionally-protected belief or expression.

- 122,126,132,156,158,226. We disagree with some of these recommendations' premises, but we are committed to combating discrimination and hate crimes and promoting tolerance. Concerning #122, although we recognize there is always room for improvement, we believe that our law is consistent with our CERD obligations.
- 142,147. See explanation of #121, para. 5. The U.S. does not monitor communications to disadvantage individuals based on their ethnicity, race, gender, sexual orientation, or religion.
- 224. Although training largely occurs at the local level, the federal government promotes best practices through technical assistance, investigations, and agreements to reform police practices.

- 229. We cannot support parts of this recommendation concerning reparations.
- 308. We support this recommendation insofar as it recommends compliance with our domestic law and international human rights obligations, including regarding freedom of religion.

7. We do not support:

- 278.

Criminal justice

8. We support:

- 73,194,195,200,213,231,232,236,255,275.
- 74. We support human rights training for civil servants who need it, understanding that not all perform functions that require it (e.g., air-traffic controllers).
- 199. We support the second part of this recommendation to the extent provided for under our Eighth Amendment, which prohibits imposition of cruel and unusual punishment.

9. We support, in part:

- 198. We support consideration of these recommendations, noting that we may not agree with all of them.
- 230,233. We strongly support expanding the number of firearms transfers that are subject to background checks but with limited, common-sense exceptions (e.g., certain transfers between family members, temporary transfers for hunting/sporting).
- 51,234,235. Sentences of life without parole may not be imposed on juveniles for non-homicide crimes. The Administration supports federal legislation to eliminate life-without-parole sentences for juveniles in the federal criminal justice system. Concerning #235, we are not currently contemplating legislation to revise existing life-without-possibility-of-parole laws as applied to adult offenders.
- 180,196,197. We support these recommendations with respect to measures required to comply with U.S. obligations, and with respect to persons with certain intellectual disabilities, but not all persons with any mental illness.
- 218. We disagree with some of this recommendation's premises, but we are committed to combating discrimination and improper actions by law enforcement officials.

- 260. We disagree with some of this recommendation's premises, but we are committed to protecting the health and welfare of adopted children.
- 274. Recidivism is an important criminal justice concern, and we support and have undertaken efforts to address it, including through the Reentry Council.
- 279. See explanation of #280, para. 10.
- 291,292. The vast majority of matters involving youth are handled through the juvenile justice system. Factors weighed by courts deciding whether exceptional circumstances warrant trial as an adult include age/background, type/seriousness of the alleged offense, the juvenile's role, and prior record/past treatment. Concerning #291, juveniles have the right to free legal representation in all criminal and delinquency proceedings, and in many cases, it is also available for civil proceedings.

10. We do not support:

- 202.
- 13,165,166,167,168,169,170,171,172,173,174,175,176,177,178,179,181,182,183, 184,185,186,187,188,189,190,191,192,193,201, which concern abolition of the death penalty.
- 280. Decisions on extradition cases are made on a case-by-case basis, consistent with our international obligations, and we cannot prejudge the outcomes of particular cases.

Economic, social, and cultural rights and measures; indigenous issues; and the environment

11. We support:

- 124,257,313,315,316,317,319,327.
- 322,323,324,326. We support these recommendations consistent with our 2010 Announcement of Support for the UNDRIP.

12. We support, in part:

- 256. See general explanation in para. 3.
- 100. We support this recommendation's principle: addressing the needs of women who have been victims of sexual violence in conflict situations.
- 164. See explanation of #308, para. 6.
- 309,311,312,314. The U.S. is not a party to the ICESCR, and we understand the rights therein are to be realized progressively. We understand #311-312 as referencing a right to safe drinking water and sanitation, derived from the right to an adequate standard of living. We continue to improve our domestic laws and policies to promote access to housing, food, health, and safe drinking water and sanitation, with the aim of decreasing poverty and preventing discrimination. Concerning #312, we do not regard UNGA Resolution 64/292 as legally-binding.
- 310. We disagree with some of this recommendation's premises, but are committed to helping communities pursue alternatives to criminalizing homelessness. We believe our laws are consistent with our international obligations.

- 338. We support this recommendation insofar as it recommends compliance with our international human rights obligations.
- 341,342,343. We support these recommendations insofar as they encourage domestic action on climate change and international efforts to reach an agreement that is ambitious, inclusive, and applicable to all countries.

13. We do not support:

- 97,98,99,102,318,320,325.
- 335,336,337. Undocumented migrants in the U.S. have access to publicly-supported healthcare through Migrant Health Centers. Undocumented unaccompanied children are eligible for health care while in federal government-funded shelters.

National security

14. We support:

- 303.
- 239,240,242,244,246,249,251. We have clearly stated our desire to close the Guantanamo Bay detention facility and to continue working with Congress, the courts, and other countries to do so in a responsible manner that is consistent with our international obligations. Until it is closed, we will continue to ensure that operations there are consistent with our international obligations. Concerning #244 and 251, the U.S. does not operate secret detention centers. We allow the ICRC access to individuals we detain in armed conflict. We support #246 insofar as it recommends upholding our international obligations, and as consistent with domestic law and policy.
- 283,284. See explanation of #210, para. 15.
- 290. We support this recommendation insofar as it recommends upholding our international obligations, and as consistent with domestic law and policy. We take great care to ensure that our uses of force – including targeted strikes – conform to all applicable domestic and international law, including the law of war principles of proportionality and distinction.
- 293,294,295,296,307. We support these recommendations insofar as they recommend respect for ICCPR Article 17, which applies to individuals within a state's territory and subject to its jurisdiction. Our Constitution and laws contain appropriate protections for privacy of communications, consistent with our international human rights obligations, and we publicize our policies to the extent possible, consistent with national security needs. We frequently update and draft new laws, regulations, and policies to further protect individuals' privacy.

15. We support, in part:

- We support these recommendations insofar as they recommend upholding international obligations, and as consistent with domestic law and policy. We reject certain premises in these recommendations, which constitute unsubstantiated accusations of ongoing serious violations of international law:
  - 203,211,212,217,258,286,288.
  - 210,247,248. Consistent with international obligations and U.S. domestic law, we have conducted and will continue to conduct thorough independent investigations of credible allegations of torture, and to prosecute persons

when there is sufficient legal basis. For example, DOJ conducted criminal investigations into alleged mistreatment of individuals in U.S. custody after the 2001 terrorist attacks, including appointment of a special prosecutor to investigate certain allegations, and brought several criminal prosecutions for abusing detainees and obtained the convictions of two contractors. In addition, DoD, CIA, and others have conducted numerous independent, rigorous investigations into detainee treatment, detention policy, and conditions of confinement. Concerning #247–248, we have extended an invitation to the Special Rapporteur on Torture to visit Guantanamo Bay consistent with the terms of other comparable visits to Guantanamo Bay.

- 204,205,206,207,209. See explanation of #290, para. 14. DoD investigates all credible allegations of misconduct by its personnel and pursues judicial or administrative action against alleged perpetrators as appropriate. For #205–207 and 209, we conduct lethal, targeted action against al-Qaeda and its associated forces, including with remotely piloted aircraft, in order to prevent terrorist attacks on the U.S. and to save lives. Concerning #207 and 209, if we determine that non-combatants were killed or injured in a U.S. strike, we may, where appropriate, offer condolence or other *ex gratia* payments to those injured and the families of those killed. Concerning #209, we remain committed to investigating and prosecuting willful use of excessive force by law enforcement officers.

- 241,243,245,250. See explanation of #239, para. 14. We reject the premise in #241 and 250 that the U.S. engages in illegal detention of terrorism suspects. We support the parts of these recommendations asking that we close Guantanamo.

- 289. DoD has established victim-representation programs for sexual assault victims eligible for legal assistance, consistent with the findings of an independent study concluding that removing proceedings from the chain of command was not needed to improve the situation of victims.

- 297,298,299,304,305. We collect information only in accordance with U.S. law and international obligations. Presidential Policy Directive 28 states that all persons should be treated with dignity and respect, regardless of nationality or place of residence, and that all persons have legitimate privacy interests in the handling of their personal information. Our foreign intelligence oversight system is robust and transparent, and includes executive, legislative, and judicial bodies. We support #299 and 304–305 insofar as they recommend respect for the ICCPR, Article 17, which applies to individuals within a state's territory and subject to its jurisdiction.

16. We do not support:

- 208,259,267,282,285,300,301,302.

Immigration, migrants, trafficking, labor, and children

17. We support:

- 112,114,115,253,263,268,269,270,271,272,273,328,329,330,332,333,340.

- 138,264. U.S. federal labor and employment laws generally apply to all workers, regardless of immigration status.

- 254. Since perpetrators of human trafficking or migrant smuggling-related crimes can remain in neighboring countries, we rely on the support of foreign partners to combat both.
- 262. We support this recommendation insofar as it recommends prohibition of slavery for agricultural workers. All workers in the U.S., regardless of immigration status, are protected from forced labor by U.S. law, including our Thirteenth Amendment and the Trafficking Victims Protection Act.
- 266. We prioritize combating sex trafficking of minors and human trafficking generally, including through the National Strategy for Child Exploitation Prevention and Interdiction, scheduled for release in 2016, and the Attorney General's annual human trafficking report, which features recommendations for improvement in combating trafficking. The Justice for Victims of Trafficking Act, enacted in May 2015, authorizes the Attorney General to implement and maintain a National Strategy for Combating Human Trafficking.
- 331. We understand the reference to family members of migrant workers to mean those located within the U.S.

18. We support, in part:

- 306. See general explanation in para. 4.
- 116,117. U.S. law allows, but does not require, employers to offer paid maternity leave. The Family and Medical Leave Act entitles eligible employees to 12 weeks of unpaid, job-protected leave in a year for the birth and care of newborn or adopted/foster children.
- 252. We actively utilize alternatives to detention where appropriate, and are working to shorten detention families may face while their immigration proceedings are resolved. Conditions at Family Residential Centers are continually being evaluated and improved.
- 265. We support this recommendation insofar as it encourages non-violent forms of discipline. Excessive or arbitrary corporal punishment is prohibited under our Constitution, and we take effective measures to help ensure non-discrimination in school discipline policies and practices.
- 339. Noncitizens in the U.S. facing removal receive significant procedural protections. The best interest of a child is one factor in determinations by immigration judges. HHS provides care and placement for children who enter the U.S. without an adult guardian, considering the best interests of the child in all placement decisions.

19. We do not support:

- 261.
- 334. Although unlawful presence in the U.S. is not a crime, and the federal government does not support state initiatives intended to criminalize mere status, certain immigration offenses are subject to criminal sanction (e.g., illegal entry).

Treaties, international mechanisms, and domestic implementation

20. We support:

- 88,105,106,110.

- 1,7,12,17,21,23,24,25,27,31,32,34,35,38,39,40,41,42,46,47,48,49,50,55,56,58,60,61, 72,80,81,82,83,84. We support recommendations urging deliberative actions on treaties or domestic institutions, such as that we "consider" them. We support recommendations asking us to ratify CEDAW, CRPD, and ILO Convention 111. We support recommendations asking us to ratify the CRC, as we support its goals and intend to review how we could move toward its ratification. We understand recommendations here and in para. 21 urging that we accelerate ratification or review of certain treaties as not intended to prejudice appropriate review and consideration of them in accordance with constitutional procedures. We understand full implementation in #31 as consistent with any reservations, understandings, or declarations to which our ratification would be subject. Concerning #72, we do not believe that any of our reservations, understandings, and declarations on international instruments undermine our obligations or the treaties' object or purpose. Concerning #80–84, although there are many efforts at all levels to improve and strengthen existing domestic institutions that monitor human rights, there are no current plans to establish a single national human rights institution.
- 62. We are preparing for Senate consideration of the ATT.
- 91,92,93,94,95. See general explanation in para. 6. We are working toward better enforcement and implementation of existing laws and programs, and will consider suggestions for further improvement on an ongoing basis, but at this time we do not have plans to develop a supplemental national action plan.
- 107. The federal government has established interagency working groups to coordinate follow-up to supported UPR recommendations and to consider recommendations by human rights treaty bodies.
- 237,238. We understand the recommendations to mean the Executive branch should support legislation to ensure compliance with obligations in VCCR Article 36 and the ICJ's judgment in *Avena*.

21. We support, in part:

- 2,3,4,5,6,8,14,16,18,19,20,22,26,28,29,30,33,36,37,45,52,53,54,57,70. We support the parts of these recommendations asking us to ratify treaties, identified above, of which the Administration is most committed to pursuing ratification.
- 108. U.S. international human rights obligations are implemented through a comprehensive system of laws and policies at all levels of government. We are taking steps to strengthen federal-level coordination, and are considering ways to improve implementation.
- 111. We work with Special Rapporteurs to facilitate their visit requests on mutually-agreed terms, and we expect two official trips in late 2015 and early 2016.

22. We do not support:

- 9,10,11,15,43,44,59,63,64,65,66,67,68,69,71,109.
- 75,76,77,78,79,85,86,87,89,90. See explanation of #80, para. 20.

Other recommendations

23. We received some recommendations that do not fit into specific categories. We do not support:

- 96,101,103,104.